

### **REMARKS/ARGUMENTS**

Reconsideration is respectfully requested. Claims 11-25 were pending in the application. Claims 14-16 and 19 are withdrawn from consideration. Claim 11 is canceled. Claims 12-14, 16-25 are amended. Support is found in the claims and specification as filed. Support for the amendment of claim 25 is found throughout the specification, for example at paragraphs [0028], [0029], [0135], [0271], [0272], [0307], [0350], [0379], [0389], [0397] and [0423]. No new matter is introduced by way of this amendment. Amendment of the claims does not affect inventorship.

Applicants have not dedicated or abandoned any unclaimed subject matter. Moreover, Applicants have not acquiesced to any rejections or objections made by the Patent Office. Applicants reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional applications.

#### **Claims Rejections Under 35 USC §112, first paragraph**

Claims 11-13, 17-18 and 20-25 were rejected as allegedly failing to comply with the written description (first paragraph) of 35 USC §112. The Examiner reiterated the rejection of claim 11 in the Advisory Action mailed December 15, 2008. However, the Examiner noted that the New Matter rejection of claim 25 was withdrawn. Claim 11 is canceled herein and the remaining claims have been amended such that they now depend from Claim 25. As such, Applicants submit that this rejection is moot. Applicants request withdrawal of the rejection of the remaining claim.

#### **Claims Rejections Under 35 USC §112, first paragraph**

Claims 11-13, 17-18 and 20-25 were rejected under 35 USC §112, second paragraph for allegedly being indefinite. In the Advisory Action the Examiner suggested that this rejection was not argued in the previous response to office action. However, upon a review of the previous office action, Applicants addressed this rejection when the

35 USC §112, first paragraph rejection was addressed. Nonetheless, Applicants will respond herein.

Initially, Applicants note that claim 11 has been canceled. The remaining claims have been amended to depend from claim 25. Claim 25 was rejected as allegedly being vague and indefinite. “Since providing and applying steps in the claim do not mention target analyte signals from the electrode, it is unclear what is an output waveform that is unique to target analyte signals from the electrode.” Also, claim 25 was suggested to be vague and indefinite because the “claim does not indicate how an output waveform that is unique to target analyte signals from the electrode is correlated with electron transfer between the electron transfer moiety and the electrode”. The Examiner suggested that “it is unclear why analyzing the output waveform using chronocoulometry can identify electron transfer between the electron transfer moiety and the electrode and why the electron transfer between the electron transfer moiety and the electrode can be an indication of the presence of said analytes in the assay complex.”

First, Applicants note that claim 25 has been amended. The amendment serves to specify that in the absence of target analyte, the ETM [electron transfer moiety] is not present. In addition, the amendment serves to remove the language “unique to target analyte signals from the electrode”, which was found to be unclear. This language is clarified by the amendment adding the language “characteristic of the presence of said ETM [electron transfer moiety]”. In addition, the amendment removes reference to chronocoulometry. Thus, the claims have been amended to clarify that in the absence of the target analyte, the ETM is not present. And, in the presence of the ETM, the method includes receiving an output waveform that is characteristic of the presence of said ETM. Applicants submit that the claims, as amended, clearly define the invention. Applicants respectfully request the Examiner to withdraw the rejection.

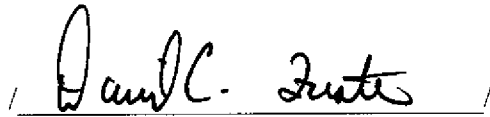
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**CONCLUSION**

In view of the foregoing amendments and arguments, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned attorney, David Foster, at 415-442-1216.

Respectfully submitted,



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